

RECEIPT # 66304  
AMOUNT 250  
SUM 7-6  
LOCAL  
FEDERAL RULE 4.1  
WAIVER FORM  
MCF ISSUED  
BY DPTY CLK. M  
DATE 8/16/05

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

ENCOMPASS INSURANCE COMPANY,

CIVIL ACTION NO.: \_\_\_\_\_

Plaintiff,

vs.

JOSEPH D. GIAMPA, FREDERICK T.  
GIAMPA, ADVANCED SPINE CENTERS,  
INC. d/b/a FIRST SPINE REHAB, FUTURE  
MANAGEMENT CORPORATION,  
EDWARD KENNEDY, BRIAN J. CULLINEY  
and JENNIFER McCONNELL

Defendants.

05 cv 11693 RCL

MAGISTRATE JUDGE Alexander

**COMPLAINT FOR MONETARY DAMAGES AND INJUNCTIVE RELIEF**

The plaintiff, Encompass Insurance Company (hereinafter "Encompass") by its  
attorneys, Smith & Brink, P.C. alleges as follows:

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## **I. INTRODUCTION**

1. This is a case about chiropractors, Frederick and Joseph Giampa (hereinafter “Giampa chiropractors”), working in concert with their employees (Chiropractors Brian Culliney and Jennifer McConnell) and other business associates (Edward Kennedy and James Kennedy), who engaged in a scheme to defraud insurance companies, including Encompass Insurance Company of Massachusetts (hereinafter “Encompass”) by submitting false, fraudulent and inflated chiropractic invoices containing excessive charges through the U.S. Mail and demanding payment for excessive and/or non-existent and/or unwarranted chiropractic treatment through their chiropractic clinic First Spine Rehab.

2. By this pleading, Encompass brings claims against the named defendants seeking injunctive relief and money damages for (1) violations of the Federal Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §1962(c)-(d), (2) violations of Mass. Gen. Laws ch. 93A, §11; (3) civil conspiracy; (4) fraud; and (5) intentional interference with advantageous business relationships.

3. All of the acts and omissions of the defendants described throughout this Complaint were undertaken intentionally.

## **II. THE PARTIES**

### **A. Plaintiff**

4. The plaintiff, Encompass Insurance Company of Massachusetts is a Massachusetts corporation duly authorized to carry on and do business in the Commonwealth of Massachusetts.

5. Prior to 2005, Encompass wrote Massachusetts automobile policies through Boston Old Colony Insurance Company.

6. Boston Old Colony was at all relevant times a Massachusetts corporation duly authorized to carry on and do business in the Commonwealth of Massachusetts.

7. At all relevant times and in connection with all of the claims detailed herein, Encompass and Boston Old Colony were writing Encompass risk policies and will be referred to throughout the remainder of this Complaint as “Encompass.”

B. Defendants

8. At all relevant times, Frederick Giampa was a resident of the Commonwealth of Massachusetts.

9. At all relevant times, Joseph Giampa was a resident of the Commonwealth of Massachusetts.

10. At all relevant times, Edward Kennedy was a resident of the Commonwealth of Massachusetts.

11. Advanced Spine Centers, Inc. d/b/a First Spine Rehab (hereinafter “First Spine”), is a Massachusetts corporation duly licensed to carry on the business of chiropractic services with its principal place of business (for purposes of this Complaint) located at 410 School Street, Lowell, Massachusetts.

12. Future Management Corporation (hereinafter “Future Management”) is a Massachusetts corporation with a principal office address of 73 Princeton Street, North Chelmsford, Massachusetts. Future Management owns a chain of chiropractic offices (including First Spine) in various states, many of which are in Massachusetts.

13. Brian Culliney is a resident of the Commonwealth of Massachusetts, who at all relevant times practiced chiropractic at First Spine.

14. Jennifer McConnell is a resident of the Commonwealth of Massachusetts, who at all relevant times practiced chiropractic at First Spine.

15. When referred to collectively hereinafter, Frederick Giampa, Joseph Giampa, Brian Culliney and Jennifer McConnell will be designated “the First Spine chiropractors.”

### **III. JURISDICTION AND VENUE**

16. Jurisdiction over this action is conferred upon this Court by 28 U.S.C. §§1331, 1332, 18 U.S.C. §1962(a)-(d), 18 U.S.C. §1964. Supplemental jurisdiction over the state law claims is proper under 28 U.S.C. §1367.

17. The vast majority of the wrongful acts known to Encompass as alleged herein with particularity were carried out within the Commonwealth of Massachusetts.

18. Venue proper under 28 U.S.C. §1391(c).

### **IV. FACTUAL ALLEGATIONS REGARDING CREATION AND ACTIVITIES OF FUTURE MANAGEMENT**

19. James Kennedy is the brother of Edward Kennedy.

20. Edward Kennedy and James Kennedy (hereinafter collectively referred to as “the Kennedy Brothers”) are the sole shareholders, officers and directors of Robert T. Kennedy, Inc. d/b/a Kennedy Professional Supply (“Kennedy Supply”), a business engaged in the sale of durable medical goods to chiropractic clinics and other similarly situated enterprises.

21. On May 19, 2005, James Kennedy filed a Chapter 11 Bankruptcy Petition (#05-43405) in the United States Bankruptcy Court, District of Massachusetts (Worcester).

24. Encompass reserves its right to seek relief from the Automatic Stay, 11 U.S.C. §362, in the bankruptcy forum and move to add James Kennedy as a party to this action.

25. Edward Kennedy through Kennedy Supply developed substantial business contacts in the chiropractic industry.

26. Through these contacts, Edward Kennedy decided to open medical offices to provide chiropractic services to the public.

27. Edward Kennedy contacted Joseph Giampa, a longtime friend who Edward Kennedy knew to be a licensed chiropractor in Massachusetts, for the purpose of becoming a partner in the new business venture.

28. The new business, Future Management Corporation was formally organized in February 1997.

29. The Giampa chiropractors and Kennedy Brothers own and/or operate New England chiropractic and physical therapy clinics including:

- |  |   |
|--|---|
| ▪ Advanced Spine Center<br>3 North Beacon Street<br>Allston, MA 02134        | ▪ United Physical Therapy<br>150 Stanford Street<br>Boston, MA 02114            |
| ▪ Attleboro Chiropractic Health Ctr.<br>3 Mill Street<br>Attleboro, MA 02703 | ▪ Physical Rehab. Group<br>1515-17 Washington Street<br>Boston, MA 02118        |
| ▪ Associated Health Care Group<br>150 Stanford Street<br>Boston, MA 02114    | ▪ Brockton Spine & Rehab<br>365 Westgate Drive, Suite 3-4<br>Brockton, MA 02301 |



- Mattapoissett Chiropractic  
109 Fairhaven Road, Suite D  
Mattapoissett, MA 02739
- United Physical Therapy  
109 Fairhaven Road, Suite E  
Mattapoissett, MA 02739
- Methuen Spine & Rehab  
30 Hampshire Street  
Methuen, MA 01844
- First Choice Chiropractic & Rehab  
94 Allen Street  
Methuen, MA 01844
- Alves Chiropractic Centers  
2834 Acushnet Avenue  
New Bedford, MA 02745
- Back & Neck Treatment  
935 Washington Street  
Norwood, MA 02062
- United Physical Therapy  
243 Church Street  
Pembroke, MA 02359
- First Spine & Rehab  
1212 Hancock Street  
Quincy, MA 02169
- Randolph Spine & Rehab  
326 North Main Street, Suite 11  
Randolph, MA 02368
- Advanced Spine Centers  
37 Roxbury Street  
Roxbury, MA 02119
- Salem Chiropractic Assoc.  
72 Washington Street  
Salem, MA 01970
- Physical Rehab. Group  
149A Highland Avenue  
Somerville, MA 02143
- Advanced Spine Centers  
553-555 Main Street  
W. Springfield, MA 01089
- First Spine & Rehab  
438 Chestnut Street  
Springfield, MA 01107
- United Physical Therapy  
442 Chestnut Street  
Springfield, MA 01103
- Taunton Chiropractic & Rehab  
80-86 Main Street  
Taunton, MA 02780
- Advanced Spine Centers  
248 Moody Street  
Waltham, MA 02453
- Wareham Spine & Rehab  
45 Main Street, Unit C3  
Wareham, MA 02571
- Advanced Spine Centers  
563-555 Main Street  
W. Springfield, MA 01089
- Advanced Spine Centers  
90 Madison Street  
Worcester, MA 01606

30. Hereinafter, the aforementioned clinics will be collectively referred to as “the Giampa clinics.”

31. Initially, the Giampa chiropractors and Kennedy Brothers agreed that Future Management would have three shareholders, Edward Kennedy (25%), James Kennedy (25%) and Joseph Giampa (50%). Later, Joseph Giampa transferred 19% of his stock in Future Management to his brother, Frederick Giampa.

32. The creation of Future Management was also intended to benefit Kennedy Supply's business, as Kennedy Supply was to be Future Management's primary distributor of medical and chiropractic equipment and supplies.

33. By September 2003, Future Management expanded from one (1) office in Lawrence, Massachusetts to over sixty (60) offices throughout New England and across the United States, including Florida, Oklahoma, Connecticut, Rhode Island, South Carolina, New Hampshire, Pennsylvania, Illinois and Virginia.

34. On or about July 20, 1998, Edward Kennedy and James Kennedy formed First Health, a sister corporation to Kennedy Supply, for the purpose of managing and handling various aspects of Kennedy Supply's business including, but not limited to, administering Kennedy Supply's payroll.

35. Edward Kennedy has accused James Kennedy of using Kennedy Supply Corporation to enable Future Management to fraudulently borrow hundreds of thousands of dollars from various lending entities under the guise that Future Management Corporation was purchasing chiropractic equipment from Kennedy Supply.

36. James Kennedy transferred money from Kennedy Supply to Future Management to pay for Future Management's payment of illegal/runner referrals to the Giampa clinics across Massachusetts.

37. James Kennedy was aware that the Massachusetts legislature criminalized the use of “runners” at Mass. Gen. Laws ch. 266 § 111 C.

38. The Massachusetts Code of Regulations 233 C.M.R. 4.12 governing chiropractors, prohibits runner referral fees.

39. Upon information and belief, Kennedy Supply monies were provided to Future Management Corporation to pay runners for “referral” of patients, including Encompass claimants, to First Spine.

40. The payment of runner kickbacks represents an intentionally unfair and deceptive business practice.

41. Payment of runners by the First Spine chiropractors was not disclosed to Encompass.

42. None of the chiropractic records and/or bills created by defendants and caused to be mailed via the U.S. Mail to Encompass referenced the payment of secret runner referral kickbacks.

43. The payment of runner kickbacks encourages fraudulent automobile insurance claims.

44. Upon information and belief, runner kickbacks inflated the chiropractic invoices First Spine submitted to Encompass.

**V. FACTUAL ALLEGATIONS REGARDING FALSE MEDICAL BILLING SCHEME**

45. The defendants successfully executed their fraudulent scheme through the Giampa clinics (including First Spine) they created, operated and controlled.

46. The medical documentation created and submitted by First Spine under the direction, supervision and control of the defendants was created in connection with

reported motor vehicle accidents and shared most -- if not all -- of the following common denominators:

- ♦ patients complained only of soft tissue injury;
- ♦ multiple claimants of varying age in the insured vehicle with each claimant receiving substantially identical diagnoses and treatment;
- ♦ the patients routinely did not receive treatment at any other non-affiliated medical facility;
- ♦ First Spine routinely treated the same patient(s) for multiple accidents. Upon information and belief, in some cases reference to prior treatment at First Spine (or previous automobile accidents) was intentionally omitted from the patients' medical record;
- ♦ the vehicles involved in the reported accidents sustained little or no damage, even though First Spine billed thousands of dollars in treatment;
- ♦ patients advanced minimal (and in most claims no) lost wage claims despite the fact that they purportedly received disability ratings (regardless of the patient's age or occupation) from First Spine; and
- ♦ bills for treatment invariably exceeded bills submitted by other chiropractic facilities providing treatment to accident victims in the same geographic area.

47. In Massachusetts, chiropractors are licensed and monitored by the Massachusetts Board of Chiropractors.

48. Massachusetts chiropractors are further regulated pursuant to the Massachusetts Code of Regulations, promulgated by the Board of Chiropractors.

49. The defendants engaged in a systematic pattern and practice of unlawful acts in violation of the Board of Chiropractor Regulations codified at 233 CMR 4.00-4.15. Such violations include, but are not limited to, the following:

- a. Creating and submitting inaccurate, inadequate and inappropriate documentation;
- b. Rendering treatment which exceeds the type, quality and/or amount of the documented and clinically reasonable chiropractic needs of the patient;
- c. Rendering a recipe of treatment absent any individualized medical decision making;
- d. Rendering treatment which is unrelated to the severity of the diagnosed, or reasonably suspected, injury or condition incurred by the patient;
- e. Rendering treatment which is provided solely for the purpose of enabling the patient to incur medical treatment expenses in excess of the tort threshold established by Mass. Gen. Laws ch. 231, §6D;
- f. Billing for services which were not performed and/or overstating the amount of time spent evaluating and/or treating patients;
- g. Billing that exceeds reasonable fees for such services;
- h. Submitting invoices containing charges that amount to overutilization of practice;

- i. Submitting invoices containing charges for examinations which are based on a level of coding which is not consistent with the patient's medical history, subjective and objective clinical findings concerning the patient which were made at the time of the visit, the complexity of the clinical decision-making involved in the diagnosis and/or treatment of the patient, or the nature of the care provided to the patient;
- j. Submitting invoices containing charges for treatments, procedures or services which were not rendered, were not fully rendered, or were not rendered as represented by treating chiropractor;
- k. Submitting treatment notes and invoices containing charges for excessive and improper use of supportive procedures and therapies;
- l. Submitting invoices and treatment records for treatment of minors that wholly exceed reasonable and necessary treatment parameters;
- m. Submitting treatment records documenting patients' disability when presenting at clinic through discharge without differentiation to individual patient's injury, age, employment and other relevant factors; and
- n. Authoring incomplete and misleading reports to insurance companies indicating false positive orthopedic tests without description or appropriate qualification.

50. All of the medical bills advanced by First Spine contained Current Procedural Terminology Codes (hereinafter “CPT Codes”).

51. CPT Codes are published annually by the American Medical Association (hereinafter “AMA”) to facilitate the efficient processing of medical charges by insurance carriers and other private and governmental health care payors.

52. By including CPT Codes on their bills, First Spine represented to Encompass that the modalities listed on the bill were performed in a manner required by the AMA’s guidelines.

53. By creating medical bills that include CPT Codes, then causing such invoices to be mailed to Encompass, the defendants were representing that the invoiced treatment modalities had been performed in conformity with the AMA’s CPT Code guidelines.

54. Upon information and belief, many of the bills prepared and submitted by First Spine, under the defendants’ supervision and control, were submitted under improper and/or deceptive CPT Codes.

55. The defendants operating through First Spine made material misrepresentations of fact and engaged in intentionally unfair and deceptive business practices by creating and mailing through the U.S. Mail, medical bills that included CPT Codes for treatment modalities that were not performed or were not performed consistent with the AMA’s CPT requirements.

56. The number of chiropractic modalities allegedly rendered by First Spine in connection with the treatment of each alleged patient guaranteed that a patient’s medical bills would exceed the \$2,000 tort threshold codified at Mass. Gen. Laws ch. 231, §6D.

57. Upon information and belief, First Spine and their runner agents would assist First Spine clinic patients to obtain legal representation to pursue personal injury lawsuits.

58. At all relevant times, upon information and belief, First Spine chiropractors were required to market First Spine services to personal injury attorneys.

59. First Spine routinely delayed the submission of records and bills to insurers (including Encompass). This tactic thwarted Encompass' opportunity to perform a timely, objective and independent evaluation of (1) the patient's true condition, (2) the necessity of the treatment allegedly rendered, and (3) the reasonableness of the fees charged.

60. The defendants exaggerated, misrepresented and fabricated reports to claimant attorneys to increase settlement potential.

61. By advancing their bills in this manner, the defendants intended that Encompass would rely upon the accuracy of such invoices when evaluating them for payment.

62. By creating false documentation, First Spine engaged in an ongoing pattern of unfair and deceptive business practices within the meaning of Mass. Gen. Laws ch. 93A.

## **VI. SPECIFIC ALLEGATIONS OF MAIL FRAUD RACKETEERING ACTIVITY**

63. The defendants created, prepared and processed false and fraudulent documentation including false medical billing invoices and reports and intentionally violated the laws of the United States by, devising and intending to devise schemes to defraud and obtain money and property by means of false and fraudulent pretenses in

representations, and by causing to be placed, in a post office and/or authorized depository for mail matter, things to be sent and delivered by the United States Postal Service, in violation of 18 U.S.C. §1341 (mail fraud) for the purpose of executing such fraudulent schemes and attempting to do so.

64. Unless otherwise pled to the contrary, upon information and belief, all documents, notes, reports, health insurance claim forms, medical diagnoses, CPT Code tally sheets, referrals, letters and request for payments in connection with the insurance claims referenced throughout this pleading traveled through the U.S. Mail.

65. Every automobile insurance claim detailed within, involved at least one use of the U.S. Mail, including the mailing of, among other things, the notice of claim, initial policies, insurance payments, claims settlement checks and the return of the cancelled settlement drafts to the financial institution(s) from which the draft(s) were drawn, as well as return of settlement draft duplicates to the insurance carrier's home office for filing.

66. Moreover, each claim identified herein, involved at least one mailing since policy documents are issued through the mail at the inception of the policy. In addition, negotiated checks are always returned to Encompass via the U.S. Mail.

67. The defendants either personally used the mails to further the fraudulent scheme by causing fraudulent medical bills and records to be mailed to Encompass and/or counsel for claimants and/or acted with knowledge that the use of the mails would follow in the ordinary course of business.

68. The defendants knew that their offices, a patient, a claimant, an insurance carrier, patient's attorney, other medical provider or the plaintiff would use the mails in

connection with each of the fraudulent claims, including issuing payments based on defendants' fraudulent documentation.

69. Encompass estimates that the defendants' fraudulent medical billing scheme generated hundreds of mailings. A table highlighting selected examples of mail fraud from the First Spine files is annexed hereto as Exhibit 1.

70. The defendants' fraudulent scheme went undetected until Encompass had sustained substantial financial injury. The nature of defendants' fraudulent scheme was self-concealing by its very nature -- false medical reports and false invoices appearing legitimate on their face.

71. The defendants intentionally concealed the fraudulent medical billing scheme from Encompass.

**VII. SPECIFIC ALLEGATIONS REGARDING GIAMPA CHIROPRACTORS AND KENNEDY BROTHERS CONTROL OF THE ENTERPRISES**

72. The Giampa chiropractors and the Kennedy Brothers are the alter egos of First Spine, Kennedy Supply, Future Management, and the Giampa clinics (hereinafter collectively referred to as "Defendant Entities").

73. Through the Giampa chiropractors' and Kennedy Brothers' direction and control of the Defendant Entities, they substantively disregarded their corporate forms.

74. Since the Giampa chiropractors' and Kennedy Brothers' identity is indistinguishable from the Defendant Entities, they are subject to individual liability.

75. Upon information and belief, in every case in which First Spine patients were provided with unreasonable, unnecessary and excessive chiropractic treatment and/or when false and fraudulent medical records and invoices were created at First

Spine, the Giampa chiropractors and Kennedy Brothers supervised and/or directed the chiropractors in connection with such treatments and tests.

76. Upon information and belief, at all material times, the employees of First Spine were under the direction and control of the Giampa chiropractors and Kennedy Brothers.

77. First Spine chiropractors were required by the Giampa chiropractors and Kennedy Brothers to follow a strict treatment protocol without deviation.

78. Accordingly, First Spine chiropractors, under the direction and control of the Giampa chiropractors and Kennedy Brothers, exercised no independent medical decision making with respect to treatment of automobile accident patients.

79. First Spine followed identical, pre-ordained assessments and therapy protocols and used virtually identical treatment and billing forms in connection with most every patient.

80. Upon information and belief, First Spine issued and sought payment for identical durable medical supply packages to auto accident claimants regardless of need and/or the type, nature and severity of injury allegedly sustained.

81. Upon information and belief, the Giampa chiropractors and Kennedy Brothers controlled and directed all management and financial decisions of First Spine, at times working in concert with co-conspirators.

82. The defendants engaged in collection practices on behalf of First Spine knowing that the chiropractic services in connection with which collection was sought were in violation of 233 CMR 4.00-4.15, and that the alleged treatment rendered by chiropractors was either, or a combination of not warranted, not rendered, unreasonable,

unnecessary and excessive, and, therefore, that the bills submitted for such services were unfair and deceptive.

83. The Giampa chiropractors and Kennedy Brothers are vicariously liable for the conduct of the Defendant Entities and the conduct of the employees and agents (including chiropractors and chiropractic aides) thereof.

84. Upon information and belief, First Spine is nominally capitalized.

85. Upon information and belief, corporate record keeping is insufficient with regard to intra and inter corporate records.

86. Upon information and belief, the Defendant Entities' intertwined financial transactions violates accepted corporate practices for corporations in good standing pursuant to Massachusetts law.

87. Upon information and belief, First Spine maintains inadequate record keeping regarding financial transactions between the Giampa clinics.

88. Upon information and belief, the Giampa chiropractors and Kennedy Brothers created First Spine not to heal injured persons but to pursue their insurance fraud schemes, which involved issuing to Encompass false, fraudulent and excessive medical bills to obtain money to which they were not entitled.

### **VIII. DAMAGES**

89. The pattern of criminally fraudulent conduct by the defendants injured Encompass in its business and property by reason of the aforesaid violations of state and federal law. Although it is not necessary for Encompass to calculate damages with specificity at this stage in the litigation, and Encompass' damages continue to accrue, Encompass' injury includes, but is not limited to, compensatory damages for:

- (1) the deprivation of Encompass' ability to conduct its insurance businesses on the basis of true, accurate, and complete assessments of legitimate, compensable claims;
- (2) the loss of funds paid for false and fraudulent (whether wholly fictitious or grossly inflated) bills for services, which funds, in part, enabled the defendants to continue secretly its pattern of illegal activities and enhance its ability to harm further Encompass' business by and through the operation of the fraudulent enterprise;
- (3) the expenses incurred to review, adjust, investigate, litigate and pay the false and fraudulent claims created by the defendants and supported defendants' operation of enterprises through a pattern of illegal activity;
- (4) the past and continuing financial burden incurred by Encompass (including other insurance carriers) to establish and carry out systems and policies to detect false, fraudulent, and inflated claims; and
- (5) total payments and expenses in excess of \$600,000.00, the exact amount to be determined at trial. The table annexed hereto as Exhibit 2 and incorporated herein identifies Encompass' payments to First Spine in connection with these claims determined to be fraudulent as of the filing of this Complaint.

**IX. CAUSES OF ACTION**

**COUNT I**  
**VIOLATIONS OF 18 U.S.C. §1962(c)**  
**(Against Frederick Giampa, Joseph Giampa,**  
**Edward Kennedy)**

90. Encompass realleges, repleads and incorporates by reference all paragraphs set forth above as if fully set forth herein.

91. In connection with each of the claims identified in plaintiff's Complaint, the Giampa chiropractors and Kennedy Brothers (hereinafter "Count I Defendants") intentionally caused to be prepared and mailed false, fraudulent, and/or misleading documentation, medical records and invoices in connection with Encompass insurance claims, in furtherance of their scheme to defraud.

92. The Count I Defendants employed one or more mailings to demand and/or receive payment on certain dates, including but not limited to, those dates referenced above.

93. Among other things, medical billing invoices, medical reports, applications for insurance and premium checks were routinely delivered to Encompass through the U.S. Mail. Policies of insurance were delivered to First Spine patients through the U.S. Mail. Medical reports and invoices were delivered to Encompass through the U.S. Mail. Payments to First Spine traveled via the U.S. Mail.

94. As documented above, Count I Defendants repeatedly and intentionally submitted false and inflated bills, reports, and other documents to Encompass for medical expenses and/or services that were never rendered, were excessive, were not reasonable, were not necessary, and/or were of little to no therapeutic value to the patients, to collect payment from Encompass under the personal injury protection benefits portion of the

Standard Massachusetts Automobile Policy of Insurance and Mass. Gen. Laws ch. §34A and §34M.

95. As a result and upon reasonable reliance of these misleading documents and misrepresentations, Encompass by their agents and employees issued drafts to First Spine for the benefit of Count I Defendants that would not otherwise have been paid.

96. The Count I Defendants' pattern of fraudulent claims, each appearing legitimate on its face, also prevented Encompass from discovering the fraudulent scheme for a long period of time enabling them to continue without being detected.

97. The acts set forth above constitute indictable offenses pursuant to 18 U.S.C. §1341 (mail fraud).

98. By filing numerous fraudulent claims in an ongoing scheme, the Count I Defendants engaged in a pattern of racketeering activity within the meaning of 18 U.S.C. §1962(c).

99. The activities alleged in this case had the direct effect of causing funds to be transferred from Encompass to First Spine for the benefit of the Count I Defendants.

100. Encompass is in the business of writing insurance and paying claims in the Commonwealth. Insurance fraud schemes practiced here and elsewhere have a deleterious impact on Encompass' overall financial well-being and adversely affect insurance rates.

101. Each of the Giampa clinics, including First Spine constitute enterprises engaged in, and the activities of which affect interstate commerce.

102. Future Management Corporation is an enterprise engaged in, and the activities of which effect interstate commerce.

103. The Count I Defendants associated with the foregoing enterprises and participated directly and indirectly in the conduct of each through a pattern of racketeering activities.

104. Encompass is a "person" as defined by 18 U.S.C. §1961(3), injured in its business or property by reason of the Count I Defendants' conduct.

105. The Count I Defendants' conduct in violation of 18 U.S.C. §1962(c) was the direct and proximate cause of Encompass' injury.

106. By virtue of the Count I Defendants' violations of 18 U.S.C. §1962(c), Encompass is entitled to recover from them three times the damages sustained by reason of the claims submitted by them, and others acting in concert with them, together with the costs of suit, including reasonable attorney's fees.

**COUNT II**  
**INNOCENT VICTIM ENTERPRISE VIOLATION OF 18 U.S.C. §1962(c)**  
**(Against Joseph Giampa, Frederick Giampa, and Edward Kennedy)**

107. Encompass realleges, repleads and incorporates by reference all paragraphs set forth above as if fully set forth herein.

108. Encompass is an enterprise engaged in, and the activities of which affect, interstate commerce.

109. The Count II Defendants associated with Encompass by directing the activities of First Spine and the employees thereof who purported to treat auto accident claimants, and thereafter, working in concert, submitted false and fraudulent bills to Encompass or others to whom Encompass became liable with the intent that Encompass rely upon such false invoices and pay money to or for the benefit of the defendants pursuant to automobile insurance policies.